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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,169	07/29/2003	Thomas Micheel	MICH 2 00001	7166
27885	7590	04/06/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114				FLETCHER, MARLON T
ART UNIT		PAPER NUMBER		

2837  
DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

RP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,169	MICHEEL, THOMAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marlon T. Fletcher	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 July 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 6 are objected to because of the following informalities: The claims have grammatical errors. Eg. Claim 3 recites “includes a base slot designed receive a portion” which is not clearly written. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 11, 12, 16, and 19, are rejected under 35 U.S.C. 102(e) as being anticipated by May (2005/0274854).

As recited in claim 1, May discloses a drum stand comprising: a base (135) having a plurality of leg connectors and a sound opening; and, a plurality of leg members (131), each leg member having a presser portion (139) adapted to engage drum (140, 141) and a plurality of base connectors (134) designed to releasably connect said leg to said base, each of said connectors on said legs spaced from one another along a longitudinal axis of each of said legs, each of said connectors defining a

different connection location along the longitudinal axis of said leg for connection to said base.

As recited in claim 2, May discloses the drum stand, wherein said drum is a conga drum (figures 30 and 31).

As recited in claim 3, May discloses the drum stand, wherein at least said leg connector on said base includes a base slot designed to receive a portion of one of said legs, wherein said base slot includes at least one groove designed to receive a corresponding groove on said base connector of said leg (figure 8 and 29).

As recited in claim 5, May discloses the drum stand, wherein said base includes three leg connectors that are substantially symmetrically oriented about an outer perimeter of said base (figures 29-31).

As recited in claim 6, May discloses the drum stand, wherein at least one leg has one base connector spaced from a bottom end of said leg a distance of about 1-20% of the total longitudinal length of said leg, and another base connector spaced from the bottom end of said leg a distance of about 30-80% of the total longitudinal length of said leg (figures 29-31).

As recited in claim 7, May discloses the drum stand, wherein at least one leg has one base connector oriented differently from said another base connector (figure 30).

As recited in claim 11, May discloses the drum stand, wherein said support arrangement includes an adjustable tension mechanism to adjust tension about said drum (abstract).

As recited in claim 12, May discloses the drum stand, wherein said support arrangement is at least partially secured to at least one of said legs (figures 27, 30, 31).

As recited in claim 16, May discloses the drum stand, wherein said support arrangement includes a flexible support at least partially secured to at least one of said legs and at least one retainer designed to limit movement of said flexible support, said at least one retainer at least partially secured to said base (abstract).

As recited in claim 16, May discloses the drum stand, including a secondary device support design to connect to at least one of said base connectors, said secondary device support adapted to connect to a device selected from the group consisting of drums (figures 1 and 2).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over May.

May is discussed above. May does not disclose a compressible material nor a strap, cord, or band.

Official Notice is taken with respect to it being well known in the art to provide

compression material and straps or cords to add support and protection in support devices.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of the well known teachings of using compression material and a strap to provide a more secure support to the drum.

6. Claims 9, 10, 13-15, and 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over May in view of Liao (6,040,514).

May is discussed above. May does not disclose a circular opening.

However, Liao (claim 9) discloses a drum stand, wherein said sound opening in said base has a cross-sectional shape selected from the group consisting of circular shape, said opening having a cross-sectional area that is greater than a cross-sectional area of a base of said drum (figures 3 and 6).

Liao (claim 10) discloses a drum stand, further including a support arrangement adapted to engage a base region of said drum to at least partially support said drum and prevent said drum from engaging sides of said opening in said base (figures 2 and 6).

Liao (claims 13-15) discloses a drum stand, wherein at least one of said legs includes a plurality of openings designed to at least partially secure said support arrangement to said leg and wherein said base includes a plurality of openings designed to at least partially secure said support arrangement to said base (figure 3).

Liao (claim 18) discloses a drum stand, wherein at least one of said legs includes a grasp opening (figure 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings Liao with the apparatus of May, because the teachings provide a more sturdy support.

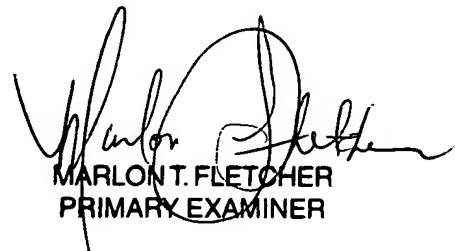
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-w, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MTF  
04/1/2006



MARLON T. FLETCHER  
PRIMARY EXAMINER